



CDBG Advisory Committee

April 12, 2017 -- Minutes

Action Items

1. Schedule the following Advisory Committee Meeting for Thursday, June 8
2. Solicit input from members, via email or teleconference, on proposed changes to the 2017 NOFA.
3. Create a Management Memo or similar written guidance for the Set-Up and Completion Forms.

Meeting Minutes

1. Summary of Program Redesign Outreach and Public Comments

HCD held four stakeholder meetings across the state, in Sacramento, Ukiah, Visalia and the City of Weed. HCD received comments at the meetings and throughout the month of March on the following topics:

- Program Income
- HCD's 50 Percent Expenditure Rule
- Over-The-Counter projects
- Aligning HCD's underwriting standards with industry standards
- Improving HCD's administrative and operational practices
- Federally allowable but unutilized methods of financing, such as the 105(a)(15) nonprofit agencies
- Comments on threshold and readiness criteria
- The lack of other funding sources for infrastructure in rural areas

HCD also received input on the three program design ideas that were presented at the outreach meetings. These models included:

- 100 percent formula allocation, with 30 recipients per year
- 50 percent formula allocation, 50 percent competitive (10 jurisdictions would receive formula allocation funds each year)
- 100 percent competitive, with one third of the funds going to Housing, Housing Related Infrastructure and Economic Development each.

Following are comments from the Advisory Committee on these 3 models:

Comment: We don't agree with eliminating activities.



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Comment: The redesign meetings focused too strongly on the upfront redistribution methods instead of how to improve the CDBG program in general.

Comment: None of the options seem feasible. An allocation may go to jurisdictions that are not ready to administer projects.

Comment: Jurisdiction staff will continue to receive political pressure from elected officials to apply every year. A front-end redesign will not address this problem.

Comment: HCD should spend more time thinking about capacity. Capacity is more important than anything else.

Question: Performance has been measured in the past, but has this improved expenditure rates?

- **HCD:** Yes, and the 50 percent rule was meant to do exactly this. Until HCD was required to implement program income requirements in July 2013, there was an increased expenditure rate.

Comment: I understand that the 50 percent rule could be seen as a performance measure, but I'm not sure I agree it is an effective measurement. We need to know upfront which jurisdictions have knowledge and capacity to administer the program. The 50 percent rule prevented jurisdictions from applying year after year, and it caused entropy of local knowledge, because jurisdictions had to wait two, three years to apply again. Knowledge and/or staff are lost over this time.

Comment: Most of the advisory committee is apprehensive towards all three proposed redesign options. It's important to know exactly when HCD had a quicker expenditure rate and what was the cause.

HCD: The July 2013 Program Income rule, which required grantees to spend down Program Income funds prior to grant funds, slowed down the expenditure rate, but HCD's national expenditure ranking was already last prior to July 2013. We currently have about 5 years of annual grant funds that are unexpended. Most of these funds are committed in open contracts, but they may not get drawn down, or drawn down quickly.

Moir Monahan attended the COSCDA March Managers Conference and several other states were very concerned about expenditure rates of the program. They were concerned with California's expenditure rate in particular. A variety of those states limit activities that they offer, they require much more for project readiness and some of them require some form of local match.



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Question: Do the states that reduce the amount of activities have improved expenditure rates?

- **HCD:** Yes and no. The 50 percent allocation and competitive model that HCD presented is based on Massachusetts' model. They have an expenditure backlog of approximately 1.6 years of grant funds unspent, whereas California has an expenditure backlog of approximately 5.1 years of grant funds unspent. Ohio went through a redesign to improve performance and they have become stricter about allowing who can apply, and limiting jurisdictions with findings. Overall at the federal level there is about 2.6 years of federal program funds unexpended. California is a large contributor to this, but there are about 20 other states that have more than 2 years of their state allocations unexpended.

Question: What exactly is it about offering multiple activities that slows down HCD's ability to administer the program and slows down the expenditure rate?

- **HCD:** The overall program set-up conditions are so light, in compared with recent years. This review is more light than some of the other programs, but the documentation supporting completion of general set up conditions is reviewed during monitoring. For that reason, many grantees ask for HCD to review the documents as part of set-up, and that slows down expenditures.

Question: I think just the number of activities and contracts is what's slowing down HCD's administration of the program, not any specific activities itself. Again, the question is why is reducing the number of activities the critical factor in the redesign?

- **HCD:** It may be the difficulty of completing several activities in one contract, and the addition of supplemental activities.
- **HCD Clarification on 6/23 per Advisory Committee Request: The time to review and approve checklists for general conditions clearance is not that much different from activity to activity. However the greater the number of activities in a contract the longer it may take.**

Question: It seems that Program Income is slowing down the expenditure rate, so why are we talking about reducing specific activities?

- **HCD:** HCD previously had 5 or 6 representatives for Contract Management. Now we will probably have only 3 representatives in Contract Management. It will be more difficult to have three staff build capacity on all the different activities. When things rise to the DFA Leadership level, these contracts typically have a large amount of activities in the contract.



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Comment: But the number of activities and the type of activities are different issues.

Question: Do you think that the 2014 contracts will have improved expenditure rates now that the jurisdictions have experience working with Program Income?

- **HCD:** HCD grantees still have about \$21 Million of Program Income on-hand, so it's not clear that grantees will improve their expenditure rates.

Question: Why is HCD so behind on expenditure rates?

Comment: Kings County has been waiting since June or July of last year for a grant fund reimbursement.

Comment: I think the mechanism HCD uses to spend Program Income is a problem. It's not so much the different activities we offer, it's the supplemental approach that I think slows down the program income expenditure. When Supplementals first started a few years ago, HCD staff told us to do as many as we like. This created a large volume of work.

Comment: It worked a lot better when Jurisdictions had a Program Income cap of \$275,000, and they could put a project forward with the Program Income re-use plan. Supplementals are more difficult to administer.

Comment: Supplementals were very helpful for a small amount of jurisdictions to use the Program Income and not send the Program Income back to the State.

Question: If jurisdictions have such a large volume of Program Income, why aren't you using that Program Income for funds you are applying for?

Question: Do you have data to show that the jurisdictions with multiple activities are slowing down the expenditure rate?

2. Program Income – New Annual Action Plan Reporting Requirements

HCD: Given these new rules, we need to get ahead of the curve. We get all of the Program Income information after the fact. We need to ask Jurisdictions, ahead of time, what do you expect to receive in Program Income, what do you plan to spend it on etc. So HCD will need to make some changes in how Program Income information is collected. It will be a learning curve for all of us, and we understand that the projections may be different than actuals, but we think this will bring to light that many jurisdictions are not fully aware of the Program Income portfolio.



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Related to this, are there current existing documents that could be used as a plan for how Program Income could be spent? Are there Housing Element items or other plans that could be used to help jurisdictions plan and project how the future income Program Income could be spent.

Comment: There are elections and shifts in priorities that really shift how CDBG funds are spent. Generally, jurisdictions are not going to plan for money they don't have.

Comment: In Imperial we plan to receive approximately \$5000 in Program Income each month, but we will receive two payoffs this month, and we anticipate this will be a cumulative total of \$150,000.

Comment: We also project the Program Income we expect to receive, but we are essentially pulling a number out of a hat. Previous year averages are not reliable indicators for how much Program Income jurisdictions will receive.

Comment: There was a jurisdiction who did not report any Program Income in one quarter and the balance jumped to \$1 Million in Program Income the next quarter. And I believe the jurisdiction deliberately did not report any PI in the first quarter because they wanted to spend their grant funds, rather than their PI, so they could be eligible to apply for additional grant funds. HCD will always have some trouble getting complete and accurate Program Information.

Question: Does anyone in HCD review the jurisdictions' A-133 Audits to see if there is any Program Income information not declared?

- **HCD:** Currently HCD does not do this regularly, and the problem is the sampling done in the A-133 Audits does not necessarily cover their grant programs.

Comment: You have budget Program Income and you have cash flow. So the request for a forecast of Program Income is difficult, because the funds need to be spent as they come in, not necessarily on the budgeted activity.

3. Historical Utilization of CDBG Funds by Activity

After reviewing the file, many grantees requested that 2016 funds be removed from this document, to provide a more representative display of what activities and which jurisdictions are not spending their funds.

After a break, HCD staff re-sorted the CDBG Grantee Information to exclude the 2016 funds



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HCD: This was a preliminary re-work, but after this basic re-sorting, you can see that the majority of jurisdictions with open grants are still under 50 percent of funds expended.

HCD: Does reviewing the updated table change anyone's thoughts about the 50 percent rule? We've had previous discussions about how elected officials often pressure jurisdictions apply for more funds even if they don't need it, and the 50 percent rule helps prevent this.

Comment: The more important consideration is the expenditure rate. The speed that the jurisdictions spend their funds should be a consideration, not whether they are at 50 percent or not. The NOFA itself should evaluate on the general percent expenditure rate.

Comment: But the 50 percent rule reduces the amount of applications HCD even receives. Why even allow low-performing applicants to apply for HCD CDBG funds? This adds additional time at the State and local level.

Comment: I think the 50 percent rule allows more jurisdictions to apply for funds, because jurisdictions with high need scores used to continuously receive HCD awards year after year.

Comment: It is still essential for the NOFA to review the expenditure rates, via the 50 percent rule or a more effective performance criterion.

Question: Can you show us any connectivity between the 50 percent rule and: a) improved performance; and/or b) more, high performance jurisdictions receiving CDBG funds? Without this data, I'm not sure the hard and fast 50 percent rule effectively meets its goals.

Comment: Keep the 50 percent rule, but have an Over-The-Counter component for projects that are shovel-ready.

Comment: There is no one thing that increases expenditures. There needs more weight in readiness, capacity and performance to get at all the variables.

4. Review of Previous Minutes

Comment: The minutes discuss grant maximums and grant minimums. I was on the phone, but I'm not sure I remember discussing grant minimums. Minimums would need to vary depending on the activity. We would not want to restrict program amounts.

Comment: We never formally vote on the approval of the minutes. I don't think we want to start this process.

5. Federal Funding Uncertainties and Upcoming NOFA



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The most recent information we have is that the 2017 federal funding level will be one half of the 2016 level.

HCD usually has the Annual Plan by this point in the year but the annual allocation amount from HUD is delayed this year. HUD has asked us to wait for the annual allocation amount.

We are currently reviewing potential NOFA changes. It would be helpful to hear from the Advisory Committee what changes we could make to the 2017 CDBG NOFA to streamline the process.

Comment: HCD could eliminate the whole supplemental activity process and have grantees use Program Income for their grant activities. Nebraska operates on this model.

Comment: It is important to get the NOFA out and the applications returned to HCD around July, potentially early July.

HCD is thinking about removing Supplemental applications and having grantees committing on-hand Program Income at the date the NOFA is issued will be committed to the proposed activities.

Comment: My current Supplementals in prior contracts are budgeted for future Program Income. If we have any Program Income on-hand at the time of the NOFA and must commit that Program Income to the activity we apply for under the NOFA we will not be able to use Program Income on the grant funds.

Comment: This could set-up the state for poor performance because if there are no Supplementals, and jurisdictions get Program Income payouts, they will need to use the new Program Income on the project and then disencumber the grant funds, reducing expenditure.

Comment: We've identified that Supplementals slow down the administration of the program.

Comment: In prior years, jurisdictions could have up to \$250,000 or so in Program Income and still apply for grant funds. Jurisdictions applied for grant activities and saved Program Income for when they had enough money to use those funds on a Program Income activity.

- **HCD:** Let's say we agree to this. HCD still needs to report on where Program Income will be reported.



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Comment: HCD used to require Program Income Re-Use plans, and these stated how the jurisdictions expected to spend PI funds. This information could be used for the new HUD Annual Action Plan requirement.

- **HCD:** HCD still must collect the Annual Action Plan Program Income information each year. HCD must collect it for all of the jurisdictions too, including the 1/3 of jurisdictions who have not historically reported this information.

Comment: Requiring PI to be committed to the new grant activity is something that will only work if you forego whatever income you're going to receive during the life of that grant. You're putting in whatever PI you have at the day of application submission. Whatever you receive during the next two and a half years, you are removing because the funds will need to be disencumbered.

- **HCD:** What if we did some combination of permission to keep some amount of Program Income on-hand, and require Program Income that comes in after that date to be used for your new activity?

Comment: I think HCD and the advisory committee have discussed reserving any additional program income funds for future activities, maybe a rolling Over-The-Counter project. But, this does not guarantee that the particular jurisdiction will end-up receiving the grant funds they disencumber for the OTC. On the other hand, this provides another opportunity for jurisdictions to apply for another, larger project. If you have an active program you could spend your Program Income there, and not have to give-up the Program Income.

- **HCD:** In an Over-The-Counter model, the applicants are effectively clearing General Conditions at the time of application. This means the applicants may be ready to go much more quickly than projects awarded through the general competition.
- **HCD:** In many of the Advisory Committee meetings, we spend a considerable amount of time talking about Program Income. But one thing many other States do is *not* generate Program Income. Many other States do not generate Program Income, by either not funding the activities that generate it, or requiring make grants instead of loans to be made with Program funds.

Comment: The Supplemental activity process is an inefficient process, so let grantees hold on to some Program Income and use a Program Income Waiver for a great CDBG eligible project.

Comment: Given the upcoming redesign, would HCD be able to process the Program Income Waivers?



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Comment: I think HCD processed much fewer waivers than any Supplemental activities. Jurisdictions only come in for waivers when they have the money. Whereas people ask for Supplemental activities ahead of the curve, for activities they may not ever fund.

Comment: If the State cut down on the amount of Supplementals and the complications of the funds request process, the workload would be reduced. Another thing that could reduce workload is for the State to not do things that the State is not required to do.

Comment: In previous years, the application itself would include all of the environmental requirements and some of the general conditions criteria. I think this was removed because it created a bottleneck, and it was broken up. But now, Contract Management is still reviewing some of these criteria before the grantee receives funds. Grantees cannot start expending until general conditions are cleared. So is there any benefit to moving some of the readiness to the Contract Management phase, or to just include it in the application? Is it better to have all of the readiness and general conditions criteria up front or segment it out the way it currently is?

- **HCD:** Contract Management does require all the general conditions to be cleared before approving funds requests. The current general conditions set up checklist requires minimal contract management review. The environmental clearance may involve review of documents submitted but that depends on the proposed activity. HCD also reviews procurement when only one response is received during a solicitation. The move to this process did involve an increased risk for the grantee which may lead to errors found in monitoring, but it was made to speed up the general condition review process in August/Sept of 2015 when the new checklists were developed.

Comment: HCD could have template program guidelines and only ask grantees where there may be changes to the guidelines.

Comment: If is the program guidelines are just a template, the jurisdiction should not have to submit them. HCD has draft guidelines online, so it would be a waste of time for applicants to print these drafts and submit them to HCD.

- **HCD:** Currently we are not reviewing guidelines at all during application review, so this would be a change to the current application review model.

Comment: When HCD reviews the guidelines, the guidelines should only be reviewed for regulatory requirements and not necessarily reviewed for some basic grammatical or proofreading criteria.

- **HCD:** Again, HCD is not reviewing guidelines at all at the current time.



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Comment: Application readiness in the redesigned program should include review of program guidelines, schedule of steps for the project, and even a timeline for the program, and who will be the program operator.

Comment: When there is turnover and capacity issues at the jurisdiction level after jurisdictions have received a grant, and new, uninformed staff are hired, there is difficulty when there are no guidelines associated with the grant. But, there could be new staff and a new city manager who would want to change guidelines. So having guidelines required up front, and having draft guidelines at the time of applications may create more work.

Comment: I disagree, if we have some of the guideline information approved up front, and new staff want to change the rules, that's not okay. If they don't want to use the funds for what was approved, then they must give back the funds.

Comment: We all agree that Supplementals are not working. So what are the options? We could allow Grantees to keep some amount of Program Income and apply for Program Income Waivers.

- **HCD:** We do have findings from HUD in the past that the Program Income waivers were not in a contract, and these need to be associated with an open contract. The reuse plan could potentially be a formal contract agreement. But, the current Program Income Re-Use agreement is supposed to be the contract that jurisdictions could use.

Comment: If HCD permits a \$250,000 Program Income limit, are we okay with expanding this limit to non-compliant jurisdictions that do not have active contracts?

Comment: HCD should consider working with the League of Cities to bring the non-reporting jurisdictions out of the shadows, with amnesty, in order to have jurisdictions report the amount of Program Income.

Comment: There needs to be a timeline associated with Program Income. I work with multiple cities who are not spending their money because they want to spend it on activities that are not eligible for CDBG funds. So, HCD does need to work with the League of Cities but still take a firm stance.

State Objective Points –

Comment: There are still residual impacts from the Drought that need to be addressed. It is important that these consequences could still be addressed through the State Objective Points.

Comment: There is an executive order to extend the Drought for four California Counties until June 30.



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- **HCD:** Disaster Resiliency could be a more flexible way to fund some of the residual impacts of the Drought that may not technically comply with the Disaster Response Criteria.

6. Planning and Technical Assistance (PTA) Grants and Low/Moderate Jobs (LMJ)

Comment: At the Cloudburst training there was a discussion about PTA grants that will not result in National Objectives, specifically for PTAs that allow LMJs as national objective. I think we should not allow LMJs as national objective on PTAs, for current or future contracts, so that these PTAs are not obligated to create jobs.

The previous NOFA did not require Low-Moderate Income Area (LMA) for PTAs. This should be changed. Fort Bragg received PTAs under LMJ last year.

Question: Are there other contracts where jurisdictions received ED PTAs under LMJ national objective?

- **HCD:** HCD would like to review the regulations because this could inhibit HCD's ability to fund ED PTAs. Contract Management also notes that the Fort Bragg PTA may need a contract amendment.

7. The role of the "First-in/First-out" (Program Income Expenditures) and Closing Contracts

Comment: I have a number of Supplementals that close-out in April. It's a lot of work to finish these activities because the Funds Request form does not make a clear delineation between Program Income and Grant Funds. It was not self-explanatory to me that at the end of the contract the jurisdiction needs to complete a close-out report. What happens is grant and Program Income funds get switched around on various activities. This results in the total grant amount expended being lower, and the remaining grant funds are spent on other activities.

- **HCD:** It sounds like it will be worth revisiting the forms and providing more assistance. HCD Contract Management reps spend a considerable amount of time working on set-up and completion forms helping jurisdictions know where to plug-in the numbers, especially when Program Income and Supplementals are involved.

It would be worth having a webinar and written instructions to go over the completion forms.

Comment: We think so. We sometimes get two different stories on how to complete the forms throughout the life of the contract.



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Comment: The management memo process is the best way to approach this. All the memos are posted on the website, by topic.

- **HCD:** FRED and Contract Management will complete a step-by-step guide on how to complete the set-up and completion reports, particularly when Program Income and Supplementals are involved.

Comment: In regards to the Annual Report, please be mindful about which fields are locked. We had to re-enter grants from the past twenty years because of the way fields have been locked.

- **HCD:** We acknowledge that we may not need to ask for all of this information in the Annual Report Form. We need some form integrity for formulas to work effectively, but we should really consider what is required and how it is inputted in the form.

8. Redesign Next Steps

HCD is developing a Framing Document. When it is completed there will be a feedback period. When we get into a more formal rulemaking process at a later stage, there will be more formal review periods.

We anticipate releasing the Framing Document in the middle of May, and having a feedback period until the middle of June. This will also allow HCD to see if there are any additional changes in the budget process that affect the program.

Comment: What I've understood from today's meeting, the type of activities is not the obstacle, it's the number of activities. So why would we even consider reducing activity types?

Comment: If you have a formula allocation that awards 90 jurisdictions, I will not stay quiet and be happy with the program if I'm jurisdiction number 91.

In an upcoming meeting, could we discuss Urgent Need requirements? If there is any information or a policy statement on Urgent Need that would help us.

The Advisory Committee may like to meet in the middle of the Framing Document outreach, to have a conversation about the Framing Document and the redesign. This would be early June. This could potentially be Friday June 16 or Thursday June 8.